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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,281	12/03/2001	Takeshi Mori	01770/LH	3564
1933	7590	09/22/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			SAFAIPOUR, HOUSHANG	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/007,281	MORI, TAKESHI	
	Examiner Houshang Safaipour	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,6-11 and 14-16 is/are rejected.
- 7) Claim(s) 4,5,12 and 13 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 December 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakajima (U.S. Patent No. 5,014,332).

Regarding claim 1, Nakajima et al. discloses an image reading apparatus for optically reading an image, comprising:

lighting means for lighting a predetermined region including an object to be read (fig. 5, lamp 2);

image pickup means for receiving reflected light from the predetermined region lit by said lighting means and outputting a corresponding image pickup signal (fig. 5, device 20);

lighting control means for controlling an amount of light emitted by said lighting means in a predetermined range so as to arrange the image pickup signal output from said image pickup means at a proper level (fig. 5, adjust. Circuit 41); and

determining means for determining a dark image pickup state on the basis of the image pickup signal output from said image pickup means, wherein said lighting control means controls the amount of light emitted by said lighting means to be low when said determining means determines the dark image pickup state (col. 5, line 32 through col. 6 line 38).

Regarding claim 2, Nakajima discloses the apparatus according to claim 1, wherein said lighting control means controls an amount of light emitted by said lighting means to be the lowest, within the predetermined range, when said determining means determines the dark image pickup state (col. 7, line 45 through col. 8, line 5).

Regarding claim 3, Nakajima discloses the apparatus according to claim 1, wherein, when said lighting control means controls, upon said determining means determining a dark image pickup state, an amount of light emitted by said lighting means to be low, said lighting control means controls an amount of light emitted by said lighting means so as to set the image pickup signal output from said image pickup means at a predetermined level (col. 8, line 12-46).

Regarding claim 6, Nakajima discloses the apparatus according to claim 1, wherein said lighting control means controls an amount of light emitted by said lighting means within a predetermined range so as to set the maximum value of an image pickup signal output from said image pickup means at a proper level (col. 8, lines 12-46).

Regarding claim 7, Nakajima discloses the apparatus according to claim 1, wherein said determining means compares the maximum value of an image pickup signal output from said image pickup means to a predetermined threshold, and determines a dark image pickup state in a case where the maximum value falls below the predetermined threshold (col. 6, lines 17-38).

Regarding claim 8, Nakajima discloses the apparatus according to claim 7, wherein, when the maximum value is determined, by said determining means, to be equal to or above the predetermined threshold, said lighting control means controls an amount of light emitted by said lighting means within a predetermined range to set an image pickup signal output from said image pickup means at proper level (col. 7, line 45 through col. 8, line 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima (U.S. Patent No. 5,014,332) ~~and further in view of well known in the art.~~ *871*

Regarding claims 9-11, arguments analogous to those presented for claims 1-3 are applicable to claims 1-3. The use of LEDs as an illumination source is well known and routinely implemented in the art. Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to use LEDs as illumination source in Nakajima's image reader.

Regarding claims 14-16, arguments analogous to those presented for claims 6-8 are applicable to claims 1-3.

Allowable Subject Matter

Claims 4, 5, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Houshang Safaipour whose telephone number is (571)272-7412. The examiner can normally be reached on Mon.-Thurs. from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles, Sr. can be reached on (571)272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Houshang Safaipour
Patent Examiner
Art Unit 2622
September 17, 2005


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SUPERVISORY PATENT EXAMINER
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